

## **15 FAM 420 PROFESSIONAL AND TECHNICAL SERVICES**

*(CT:OBO-1; 04-29-2005)  
(Office of Origin: OBO)*

### **15 FAM 421 GENERAL**

*(CT:OBO-1; 04-29-2005)  
(Uniform State/USAID/Commerce/Agriculture/DIA)*

- a. Posts may require the services of real estate experts for the preparation of acquisition proposals and other required documentation and for real property transactions. Posts must obtain prior approval from the Bureau of Overseas Buildings Operations (OBO) or the Overseas Management Support Division in the Bureau for Management, USAID/Washington (USAID/W - M/OMS), before making commitments to architects or other local experts and before incurring financial obligations. For OBO, no contract for professional or technical services may be signed by a post contracting officer until OBO has approved the services and allotted funds. For USAID, USAID/W (M/OMS) must approve the services; however, prior allotment of funds is not required.
- b. For purposes of this subchapter, “experts” include real estate consultants, brokers, agents, and appraisers; architects, engineers, and surveyors; attorneys and notaries; and other persons with recognized knowledge and expertise in the real estate transactions and assessments involved.

### **15 FAM 422 SELECTION OF REAL ESTATE EXPERTS**

*(CT:OBO-1; 04-29-2005)  
(Uniform State/USAID/Commerce/Agriculture/DIA)*

In selecting real estate experts, posts must follow competitive procedures in Federal Acquisition Regulation (FAR) Parts 5 and 6 (with the exceptions noted in 15 FAM 424) and coordinate with the Bureau of Overseas Buildings Operations (OBO) and the Office of the Assistant Legal Adviser for Building and Acquisitions (L/BA) on the selection process and requirements for services. Posts must ensure that the experts have demonstrated expertise in their field, are duly licensed, have a sound business reputation and

knowledge of local laws and customs, and have no related interest in the project at hand. Posts' selection recommendations, including fee quotes and all pertinent details, must be submitted to OBO or the Overseas Management Support Division in the Bureau for Management, USAID/Washington (USAID/W - M/OMS) for approval and (for State only) funding prior to awarding a contract.

## **15 FAM 423 SELECTION OF ARCHITECT, ENGINEER, AND RELATED TECHNICAL SERVICES**

*(CT:OBO-1; 04-29-2005)*

*(Uniform State/USAID/Commerce/Agriculture/DIA)*

Selection procedures for these professionals are included in the Federal Acquisition Regulation (FAR) Part 36 (see definition in FAR Part 36.102). Posts must coordinate in the selection and obtain prior approval and funding for such services from the Bureau of Overseas Buildings Operations (OBO) or the Overseas Management Support Division in the Bureau for Management, USAID/Washington (USAID/W - M/OMS).

## **15 FAM 424 FEES FOR EXPERT SERVICES**

*(CT:OBO-1; 04-29-2005)*

*(Uniform State/USAID/Commerce/Agriculture/DIA)*

Fees for professional real estate services must be for a fixed amount, i.e., either an hourly rate for a set number of hours or a flat price for a specifically defined task. Fees may not be based on a cost-plus percentage, as this establishes a conflict of interest. The only exception to this policy is the use of a percentage fee when utilizing the services of a real estate agent/broker for the sale of U.S. Government-owned property. Any fees paid cannot be higher than those established by local law, custom, or authority. (See 15 FAM 425 for attorneys' fees.)

## **15 FAM 425 SELECTION AND PAYMENT OF ATTORNEYS**

*(CT:OBO-1; 04-29-2005)*

*(Uniform State/USAID/Commerce/Agriculture/DIA)*

- a. Posts must coordinate requests for real estate-related attorney services with the Bureau of Overseas Buildings Operations (OBO) and the Office of the Assistant Legal Adviser for Building and Acquisitions (L/BA) for State

and the Overseas Management Support Division in the Bureau for Management, USAID/Washington (USAID/W - M/OMS) for USAID. For State, prior funding is also required. Posts should identify a local attorney fluent in English and knowledgeable in real estate matters.

- b. Requests to OBO and L/BA for approval and funding must include the attorney's hourly fee rate and an estimate of the number of hours needed for the task. The post must include a cap in the number of hours allowed in the service contract, or it will be in violation of the Anti-Deficiency Act. A contract that merely provides for services to be rendered at an hourly rate is not allowed. The post must obtain an estimate of the number of hours anticipated from the attorney for the job at hand and request the entire amount of funds from OBO in advance. If the limit to the dollar amount is being approached, the post must request authority to amend the contract to increase the number of hours and must request equivalent funds. Post must have funds on hand before it can task an attorney to perform services. In addition, the post must require a monthly bill from the attorney, no matter how small, to avoid the situation of the attorney running up a large bill without the awareness of the post or OBO, thereby putting the post and OBO at a disadvantage in reviewing the legitimacy of the hours charged.

## **15 FAM 426 THROUGH 429 UNASSIGNED**